



IN THE HIGH COURT OF JUDICATURE OF MADHYA PRADESH AT JABALPUR.

Writ Petition No. 4899 of 2000.

Petitioner : Ku. Shanta Gautam D/O Shri B.S. Gautam aged about 35 years, resident of village Kapan via Akaltara, District Janjgir-Champa (M.P)

-Versus-

Respondents : 1. Janpad Panchayat Akaltara through Chief Executive Officer Janpad Panchayat Akaltara District Janjgir-Champa (M.P)

2. Commissioner, Bilaspur (M.P)

3. Collector district Janjgir-Champa (M.P)

4. Smt. Saraswati Sandilya, wife of Lakeshwar Singh, aged about 30 years, resident of village Kapan, Vikashkhanda Akaltara, district Janjgir (M.P)

5. Gram Panchayat Kapan, through its Secretary, Gram Panchayat, district Janjgir-Champa (M.P)

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR SEEKING
A WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND
DIRECTION AND / OR ORDER



आदेश पत्रक

मामला क्रमांक W.P.No. 4899/2000 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>12.01.2007</u> Shri PP Sahu, counsel for the petitioner. Shri NK Agrawal, Dy Advocate General with Shri AS Kachhawaha, Government Advocate for respondents No.2 & 3 / State. None for other respondents. Factual matrix of the case in brief is that petitioner is a graduate from Guru Ghasidas University, Bilaspur. She was living along with her parents. Her father being a retired government servant, is drawing pension @ Rs.700/- and was included in the list of persons living below the poverty line. State Government sanctioned three posts for Anganwadi Karyakarta for Gram Panchayat, Kapan, Dist-Janjgir-Champa Gram Panchayat, Kapan, passed a resolution, and recommended name of the petitioner for the post of Anganwadi Karyakarta and recommended the name of respondent No.4 for the post of Anganwadi Sahayika, but in place of the petitioner, Chief Executive Officer, Janpad Panchayat Akaltara, vide order dated 20.12.1997, appointed respondent No.4 on the post of Anganwadi Karyakarta. Therefore, petitioner submitted a representation and finally the order was modified, by appointing the petitioner on the post	

(पीछे देखिये)

(84)

आदेश पत्रक

मामला क्रमांक W.P.No. 1899/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	of Anganwadi Karyakarta and accordingly she took charge of the post on 26.09.1998. (2) Respondent No.4 assailed the petitioner's appointment before the Collector, Akaltara <i>inter-alia</i> on the ground that petitioner's father is drawing pension more than Rs.3000/- per month and petitioner's sister is Secretary of Gram Panchayat. Therefore, petitioner was not eligible and qualified for being appointed on the post of Anganwadi Karyakarta. Collector called report from the Model Officer, Mahila Evam Bal Vikas, Janpad Panchayat, Akaltara, and vide his order dated 03.03.1999, cancelled petitioner's appointment on the ground that petitioner's father is drawing annual pension Rs.12,000/- and he has 3.50 acres of land; who withholding this information, got his name recorded in the list of persons living below poverty line, therefore, petitioner is not competent for preferential consideration. (3) Feeling aggrieved, petitioner preferred an appeal and the Commissioner, Ex-Officio Appellate Authority vide his order dated 26.04.2000, sustaining the order passed by the Collector, dismissed the appeal. Feeling aggrieved this writ petition. (4) Learned counsel for the petitioner contended that the income recorded by the authority @ 1000/- per month from the pension is incorrect. According to PPO i.e. Annexure P-1, pension of	

(पीछे देखिये)

आदेश पत्रक

मामला क्रमांक W.P.N.O. 11899/2000 सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	petitioner's father is Rs.700/- per month, and on the basis of this income, petitioner's father fall in the category of persons who are below the poverty line. Therefore, petitioner was entitled for preference in her appointment. On the other hand, State supported both the orders and in addition, contended that petitioner does not fulfill the eligibility criteria. According to criteria, no relative of the candidate should be in the Government service and for preference, if other conditions remain the same, person from below the poverty line is to be given preference. One of the younger sisters is Secretary of Kapan Gram Panchayat, and another is a clerk in the Government Agriculture Department. As such, two sisters are holding Government service; therefore, petitioner does not fall within the eligibility criteria. That apart, petitioner's father is getting pension @ 1000/- per month, excluding DA and other benefits. He also holds 3.50 acres of land. Learned counsel for the State further contended that they have unveiled correct picture, without suppressing any thing, in their return and that return has been duly verified by an affidavit. (5) It is not disputed that petitioner's father does not hold any land. Petitioner herself has filed Annexure P-1; according to that document, pension that was fixed by the Government is Rs.1000/- per month. Un-disputedly, according to that document, excluding DA or	

(पीछे देखिये)

(86)

आदेश पत्रक

मामला क्रमांक *W.P.No. 4899/2000* सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	other relief, pension payable was Rs.1000/- per month. Petitioner's father commuted his pension; therefore, he was paid a total sum of (Rs.37,656/-) and thereafter he was allowed to draw Rs.700/- per month. Therefore, without there being any dispute, it is evident that income of petitioner's father was more than Rs.1000/- per month and it is also expected that from his agricultural land, he must be earning something, therefore, income of petitioner's father was more than the income required for below poverty line i.e. Rs.11,000/- per annum. Therefore, petitioner does not fall in the category of family belonging to below poverty line and was not entitled for preference. Undisputedly, two sisters of the petitioner are in government service. Contention of the petitioner is that both the sisters are living separately; but no such exemption has been allowed in the guidelines, guidelines create a specific bar that no one whose relatives are in government service, can be allowed to be appointed as Anganwadi Karyakarta. (6) Learned counsel for the petitioner further contended that respondent No.4 has no <i>locus standi</i> to challenge the appointment of the petitioner as she was recommended by the Gram Panchayat for the post of Anganawadi Sahayika. On the other hand, it was opposed by the counsel for the State. Admittedly, respondent No.4 was	

(पीछे देखिये)



आदेश पत्रक

मामला क्रमांक W.P.No. 4899/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Pad/Bini	appointed to the post of Anganwadi Karyakarta, and her appointment was cancelled on the representation of petitioner and after cancellation of her appointment, petitioner was appointed to the Post of Anganwadi Karyakarta. In the facts and circumstances, no one other than respondent no.4 is the person aggrieved by cancellation of her appointment, and she was being person aggrieved correctly challenged the cancellation order before appropriate forum. (7) In the result, there is no merit in the petition. Hence the petition is liable to be dismissed and is accordingly dismissed.	Sd/- V.K. Shrivatava Judge

(पीछे देखिये)

 12/11/2011
 12/11/11